

(2013) 02 AP CK 0003
In the Andhra Pradesh High Court
Case No : CRP No. 2934 of 2012

Golla Savaranna and Others	Vs	APPELLANT
Golla Thimmanna (died) by LRs. and Others		RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 22

Citation : (2013) 5 ALD 67 : (2013) 5 ALT 798

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : Madhusudan Reddy Gavinolla, for the Appellant; K. Mahipathi Rao, Counsel, for the Respondent

Judgement

R. Kantha Rao, J.—This civil revision petition is filed against the order dated 29.2.2012 passed in IA No. 407 of 2011 in AS No. 74 of 2009 by the III-Additional District Judge, (FTC), Gadwal, Mahabubnagar District. The revision petitioners are the plaintiffs. They instituted the suit, OS No. 62 of 2006 for declaration of title and possession in respect of the land of an extent of Acs. 39-05 cents in the Court of Senior Civil Judge, Gadwal. After full trial, the said suit was dismissed by the Senior Civil Judge, Gadwal. Feeling aggrieved, the plaintiffs filed AS No. 74 of 2009 which is now pending disposal before the III-Additional District Judge (FTC), Gadwal. When the arguments in the appeal were commenced before the learned Additional District Judge, the respondents-defendants filed IA No. 407 of 2011 under Order 41, Rule 22 of CPC seeking to condone the delay of 717 days in filing the cross-objections against the finding on Issue No. (1) in the judgment and decree in OS No. 62 of 2006 on the file of the Court of Senior Civil Judge, Gadwal. The said application was objected to on the ground that no sufficient cause has been assigned to condone the inordinate delay and that the petition was belated. The learned Additional District Judge however allowed the petition by his order dated 29.11.2012. Challenging the said order, the plaintiffs filed the present civil revision petition.

2. The grounds urged by the respondents before the learned Additional District Judge, while making submissions in the petition filed under Order 41, Rule 22 of CPC were that while their Counsel was preparing a brief to submit arguments in the appeal, a Senior Counsel advised to file cross-objections and on the advise of the said Senior Counsel they proposed to file cross-objections and filed a petition under Order 41, Rule 22 of CPC to condone the delay of 717 days. Order 41, Rule 22 CPC provides for filing cross-objections within one month from the date of service of notice on the respondents in the appeal suit or their Counsel on the date fixed for hearing the appeal. The said provision enables the appellate Court to extend time for filing the cross-objections. Admittedly, the trial Court decided the Issue No. (1) in favour of the plaintiffs and Additional Issue No. (2) in favour of defendant No. 1 and ultimately dismissed the suit. Therefore, the suit filed by the plaintiff was dismissed and there is a finding recorded by the trial Court on Issue No. (1). For that reason, they were advised by a Senior Counsel to file cross-objections challenging the finding recorded by the trial Court, which went against them. The learned appellate Court allowed the petition on the ground that a vast extent of Acs. 39-05 cents of land was the subject-matter of dispute and that the respondents have to be afforded an opportunity to put forth their grievance against the finding recorded by the trial Court against them. As rightly held by the learned appellate Court, the predominant consideration for the appellate Court is to effectively adjudicate upon the substantial rights of the parties and the parties as far as practicable have to be afforded opportunity to put forth their objections to the decree passed by the trial Court. I do not find any illegality or irregularity in the order passed by the first appellate Court to interfere in the present revision petition. The order passed by the appellate Court is, therefore, confirmed and the civil revision petition is dismissed without any order as to costs.